

PORT OF TACOMA COMMISSION
ACTION ITEM MEMO



Item No: 6C
Meeting Date: 6/20/2023

DATE: 6/12/2023
TO: Port of Tacoma Commission
FROM: Eric Johnson, Executive Director
Sponsor / Presenter: Jason Jordan, Director, Environmental & Planning
SUBJECT: SEPA Policy Update

A. ACTION REQUESTED

Staff is briefing Commission on draft updates and upcoming action item for a revised new SEPA (State Environmental Policy Act) Resolution for the purpose of adoption establishing the Port of Tacoma's SEPA policies and Procedures. The SEPA requires the Port, along with every other public agency, to treat concern for the environment as part of its mission, together with its other responsibilities as a public agency.

B. BACKGROUND

The State Environmental Policy Act ("SEPA"), Chapter 43.21C RCW (Revised Code of Washington), sets forth an environmental policy for Washington State and requires that the environmental impacts of proposals or actions be analyzed and, where appropriate, mitigated. SEPA applies to state agencies, counties, and municipal corporations, including port districts. The Port is required to adopt the SEPA policies and procedures that are consistent with the rules adopted by the Department of Ecology (WAC (Washington Administrative Code) 197-11) and may adopt by reference any or all the rules contained in Chapter 197-11 WAC.

The Port of Tacoma SEPA Resolution serves as the governing document for how the Port will conduct and manage the environmental review of projects on Port owned land. The SEPA Resolution was last updated in October 2016. Upon approval the prior Resolution will be repealed and replaced with this new resolution.

The agency in charge of carrying out the SEPA's procedural requirements for a proposal is the lead agency. A lead agency is selected for each proposal. The Port will typically be the lead agency for its proposals. However, another government may be the lead agency for a Port project.

The person or office at the lead agency in charge of the SEPA compliance is the responsible official (the "Responsible Official"). The Port's Responsible Official is the Port's Director of Environmental Programs for projects and proposals initiated after the date of approval of this Resolution. The Responsible Official may consult with the proponents of the proposal concerning the SEPA process. Subject to budgetary authorization, the Responsible Official may retain and consult with such other experts as may be necessary to perform the duties described herein.

C. SCOPE OF WORK

The SEPA requires the Port, along with every other public agency, to treat concern for the environment as part of its mission, together with its other responsibilities as a public agency. The SEPA itself does not have any substantive permit requirements. Rather, the SEPA review occurs when the Port takes some action on a proposal. This action is called the “underlying governmental action.” Because the SEPA applies only when some underlying governmental action is involved, the SEPA supplements or “overlays” the Port’s regular planning and decision making. The SEPA provides a basic process for studying and responding to a proposal’s environmental impacts, especially at the planning stages. The exact nature and timing of the SEPA process can vary for each type of underlying governmental action and for each individual proposal.

Staff will be prepared to provide a brief history of SEPA, highlight the current resolution and focus on potential changes to the public notice process required within the resolution. This Resolution contains the Port’s SEPA procedures, which detail the environmental review process under the SEPA. Some procedure changes to note include:

- Public Notification Process:
 - Send the notice via electronic mail to the Port of Tacoma’s Agency and Interested Persons SEPA Mailing List, which shall include all required agencies, interested Tribes, and parties who have requested to be added to the list, either for all Port SEPA determinations or for a specific project or proposal. Send the notice via electronic mail or regular mail to all parties who provided comments on the project or proposal.
 - Threshold Determinations Send the notice via regular mail to taxpayers as indicated by the records of the Pierce County Assessor for properties within 2,000 feet of the proposed action.
 - EIS (ENVIRONMENTAL IMPACT STATEMENT) Scoping, and Availability of Draft and Final EIS Send the notice via regular mail to taxpayers as indicated by the records of the Pierce County Assessor for properties within 4,000 feet of the proposed action.
 - Post notice on the Port’s website and file the documents required by WAC 197-11-508 with the State Department of Ecology for publication of notice in the SEPA Register.
- Appeal Process
 - No Administrative Appeals. There shall be no administrative appeals of Port SEPA determinations (including appeals of any conditions or denials by Port staff under RCW 43.21C.060).
 - No Exhaustion of Remedies. Because there are no administrative appeals, a person is not required to request informal reconsideration prior to filing suit to challenge the Port’s SEPA determinations.
 - Judicial Review. When the Land Use Petition Act, Chapter 36.70C RCW, (“LUPA”) applies to a Port proposal, all judicial appeals must be brought under the applicable LUPA statute of limitations. If LUPA does not apply, the Port may, but is not required to, commence the SEPA statute of limitations for its proposals by filing a Notice of Action under RCW 43.21C.080. The Port may decide in a particular situation to use any other procedure allowed by RCW 43.21C.075 and WAC 197-11-680.

- Tenant SEPA Service Option
 - Staff recommends removing this option as there was limited use by Port tenants. The Port at the direction of the ED could still perform this duty as directed. Current Resolution Section 15 SEPA Processing fee of \$500.

D. SCHEDULE

SEPA Resolution Briefing	June 20, 2023
SEPA Resolution Update	July 18, 2023

E. ENVIRONMENTAL IMPACTS / REVIEW

The SEPA contains the rules for preparing environmental impact statements. The Port hereby adopts the State rules in WAC 197-11-400 to -460 by reference. The Responsible Official shall decide the scoping method and deadline for a given proposal, consistent with WAC 197-11-408. Scoping techniques can vary by proposal. If a consultant is preparing an EIS, the consultant's contact should make provisions for possible changes in the scope of the EIS based upon the scoping process.

F. NEXT STEPS

The primary next step will be to update the SEPA Resolution as directed. Staff is anticipating coming back to the POT Commission for action July 18, 23. in accordance with WAC 197-11-902(3), the Port has provided public notice of and opportunity for public comment on this Resolution prior to Commission action.